Court No.2

Civil Misc. Writ Petition No. 1206 (M/S) of 2001
(Old No.7999 of 2000).

M/s Cosmo Marketing Private Ltd. New Delhi. ……. Petitioner.

Versus

The Chief Controlling Revenue Authority U.P. and others. …… Respondents.

……

Hon'ble P.C. Verma, J.

This writ petition has been filed by the petitioner challenging the assessment orders dated 08.04.1999 passed by the Chief Controlling Revenue Authority in Stamp Revision No.745 of 1994-95 and dated 04.08.1994 passed by the Additional Collector (Finance & Revenue), Nainital in Stamp Case No.52 of 518 of 1990-91 assessing the stamp duty on the sale deed dated 19.08.1991 treating the land transferred to the Company to be not an agricultural land but an industrial land.

The learned counsel for the petitioner submits that the Company had purchased the land for the purpose of agriculture farming to be done by the Company and the land transferred to the Company is being used for the agricultural purposes. The crops have been sown. There is report of the Patwari concerned on record which shows that the land is used for the agricultural purposes. Thus, the assessment of the stamp duty treating the land as industrial land is apparently erroneous. There is nothing on record that there was permission by the Collector for the change of user of agricultural land under Section 143 of the U.P. Zamindari Abolition and Land Reforms Act. Therefore, in absence of the permission by the Collector the statutory presumption is also in favour of the petitioner that the land is being used by the petitioner for the agricultural purposes. There is sufficient evidence on record to show that the land is being used for the agricultural purposes.

Therefore the order passed by the Additional Collector (Finance & Revenue) and the Chief Controlling Revenue Authority assessing the stamp duty treating the land as industrial land is per ce erroneous and cannot be sustained.

Thus, the impugned order passed by the Additional Collector (Finance & Revenue) and Chief Controlling Revenue Authority are hereby quashed. They are directed to re-assess the stamp duty treating the land to be agricultural land and calculate its market value for the purpose of stamp duty.

With the aforesaid observation, the petition is disposed of finally.

(P.C. Verma, J.)

13.11.2002
P.Singh